IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 899 OF 2007

Smt. Suman Sarjerao Power ...Petitioner
V/s.
Smt.Shakuntala Pandit Patil & Ors. ...Respondents

Mr.Sudhakar G. Thorat for the Petitioner.

CORAM : A.S. OKA, J.

DATED : FEBRUARY 9, 2007

P.C. :-

1. By this petition under Article 227 of the Constitution of India, the petitioner has taken exception to the order dated 18th November, 2006 passed by the learned Member of the Motor Accident Claims Tribunal below Application Exhibit-33 filed by the petitioner.

2. In a claim petition under Section 163(A) of the Motor Vehicles Act, 1988, the petitioner has been impleaded as opponent no.1. In the application made by the petitioner, it was contended that the accident in question has occurred as a result of negligence of the person driving a motor cycle. It was contended that owner of the motor cycle was a necessary party and

therefore, prayer was made for impleading the owner as a party opponent.

3. The learned Member of the Tribunal was right in rejecting the said application as it is for the Applicant/Claimant to implead necessary or proper party to the claim petition. If a necessary party is not impleaded in the claim petition, the petitioner can always raise all contentions on the basis of legal effect of non-joinder of such party.

4. Subject to what is stated hereinabove, writ petition is rejected.

(A.S. OKA, J.)